(34)

HIGH COURT OF CHHATTISGARH AT BILASPUR

Single Bench : Hon'ble Shri Satish K. Agnihotri, J.

W.P. (C) No.1866 of 2007

PETITIONER Smt. Pramila Sinha aged 44 years W/o Uday Ram Sinha, disqualified President of Nagar Panchayat Abhanpur Distt. Raipur (C.G.)

Vs.

RESPONDENTS

1. Chhattisgarh State Election Commission through it's Secretary, Mahanadi Khand, Mantralay Raipur (C.G.)
2. Collector Cum District Election Officer Raipur (C.G.)

Present: Shri Jitendra Nath Nande, counsel for the petitioner.

Shri Utkarsh Verma, Dy. Govt. Advocate for the State / respondents

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ORAL ORDER
(Passed on 29th March, 2007)

By this petition under Article 226 of the Constitution of India, the petitioner has impugned the order dated 21.02.2007 (Annexure P-1) whereunder the Secretary, Chhattisgarh State Election Commission has dismissed the petition seeking review against order dated 25.05.2006 (Annexure P-3) and order dated 28.08.2006 (Annexure P-2) passed by respondent No.1 earlier.

2. The indisputable facts are that the petitioner was elected to the office of the President, Nagar Panchayat Abhanpur, District Raipur, in the election held in the month of December, 2004. Under Section 32-B of C.G. Municipalities Act, 1961, (for short 'the Act') the petitioner was required to lodge an account of his election expenses. Under Section 32-C of the Act, on account of failure to lodge an account of expenses, the State Election Commission can declare the returned candidate as disqualified for being a member of the Municipal Council or Nagar Panchayat, as the case may be, for a period of five years from the date of the order. In the present case, the petitioner after having been declared as elected, did not lodge the account

of election expenses. Thus, she was declared as disqualified vide order dated 25.05.2006 (Annexure P-3) passed by respondent No.1. Being aggrieved and dissatisfied with the said order, she has filed a writ petition, bearing W.P. No.4456 of 2006 for the following reliefs:

- "To issue writ of certiorari for quashing the orders contained in documents Annexure P-1 dated 25.05.2006 passed by State Election Commission and Annexure P-2 dated 17.07.2006 passed by Chief Muncipal Officer, Nagar Panchayat, Abhanpur.

- To issue writ of mandamus directing the respondents to consider the accounts expenditure filed by the petitioner in accordance with law"

3. This Court, vide order dated 02.02.2007, passed in W.P. No.4456 of 2006 held that the State Election Commission on sufficient grounds offered by the returned candidate can reconsider the order passed by the State Election Commission under Section 32-C of the Act. Accordingly, the said petition was partly allowed with liberty to the returned candidate to move the State Election Commission questioning the orders dated 25.05.2006 and 17.07.2006 for reconsideration.

4. The petitioner accordingly filed an application before the respondent No.1 and respondent No.1 by its order dated 21.02.2007 dismissed the same observing as under:

"आवेदिका द्वारा माननीय उच्च न्यायालय में प्रस्तुत रिट पिटीशन नं. (सी) 4456/06 में पारित आदेश के सन्दर्भ में पुनः पुर्नविलोकन याचिका दिनांक 08.02.2007 को प्रस्तुत की गयी है । माननीय उच्च–न्यायालय के आदेश के प्रकाश में आयोग ने आवेदिका द्वारा प्रस्तुत पुनर्विलोकन याचिका में उल्लेखित बिन्दुओं पर विचार किया ।

पुनर्विलोकन याचिका में उन्हीं तथ्यों का पुनः उल्लेख आवेदिका (श्रीमती प्रमिला सिन्हा) द्वारा किया गया है जिन पर पूर्व में आयोग द्वारा धारा 32 (घ) के अन्तर्गत आवेदिका द्वारा प्रस्तुत आवेदन पर पारित आदेश दिनांक 28.8.2006 में विचार कर निर्णय लिया जा चुका है ।

आवेदिका द्वारा व्यय लेखा का संधारण नियमानुसार न करने तथा समयावधि में व्यय लेखा जमा न कर पाने बाबत् समाधानकारक प्रत्युत्तर अथवा विधिसम्मत दस्तावेज प्रस्तुत नहीं किया गया है ।

अतएव उपरोक्त विवेचन से स्पष्ट है कि आवेदिका अपने आवेदन दिनांक 8.2.2007 के बिन्दुओं को प्रमाणित करने में असमर्थ रही है । छत्तीसगढ़ नगरपालिका अधिनियम में धारा 32 (घ) के अन्तर्गत पारित आदेश के उपरांत समीक्षा का प्रावधान नहीं है । मान. उच्च–न्यायालय के आदेश के प्रकाश में आवेदिका ने यह पुनर्विलोकन याचिका प्रस्तुत की है । छत्तीसगढ़ नगरपालिका अधिनियम 1961, नगरपालिका निर्वाचन नियम, निर्वाचन व्यय (लेखा संधारण और प्रस्तुति) आदेश 1997 में तथा राज्य निर्वाचन आयोग के निर्देशों के सन्दर्भ में आयोग द्वारा पूर्व में पारित आदेशों दिनांक 25.5.2006 एवं दिनांक 28.8. 2006 को निरस्त करने या संशोधित करने का अब कोई आधार नहीं है ।"

5. Being aggrieved, the petitioner has filed this petition, on the same grounds as raised in W.P. No.4456 of 2006. In addition to that, learned counsel for the petitioner would submit that respondent No.1 has not applied its mind and has passed the impugned order.

6. Having heard learned counsel for the parties and perused orders dated 25.05.2006 (Annexure P-3), 28.08.2006 (Annexure P-2), 21.02.2007 (Annexure P-1) passed by respondent No.1 and having an opportunity of going through the order dated 02.02.2007 passed by this Court in W.P. No.4456 of 2006, it is evident that respondent No.1 in its order dated 21.02.2007 has considered all the points of the petitioner raised in his review application. It is admitted case of the petitioner that the required account of expenses under Section 32-B of the Act was not lodged within the prescribed period of 30 days, but the same was lodged after 5 months on 22.06.2005. There is no other reason which can mitigate the circumstances restraining the petitioner in lodging the election expenses within the prescribed time. The order passed by respondent No.1 is unexceptional. There is no infirmity, illegality or irregularity in the impugned order. Thus, no writ/direction can be issued in exercising the power under Article 226 of the Constitution of India.

7. This petition is accordingly dismissed. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

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